

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

KIM VO, )  
Plaintiff, )  
 ) No. 1:19-cv-00084-RAL (Erie)  
v. )  
 )  
DOC SECRETARY JOHN WETZEL, et al., ) Richard A. Lanzillo  
Defendant. ) United States Magistrate Judge  
 )  
 ) ECF No. 63

**OPINION & ORDER**

Plaintiff Kim Vo (Vo) is an inmate in the custody of the Pennsylvania Department of Corrections (DOC) at its State Correctional Institute at Cambridge Springs (SCI-Cambridge Springs). Her Amended Complaint alleged civil rights claims against several DOC employees. ECF No. 26. She filed a Motion to Compel discovery pursuant to Federal Rule of Civil Procedure 37 on May 13, 2021. ECF No. 63. Since then, the Defendants have produced additional documents responsive to certain of her discovery requests. As to other requests, they have responded that they have already produced the most legible copies of the requested documents, they have been unable to locate the requested documents, or the requested documents do not exist. Because Defendants supplemental responses comply with the rules governing discovery, Vo's Motion to Compel is DENIED.

Vo's Motion to Compel contends that the Defendants have not complied with her discovery requests for the following documents: 1) her intake property sheet from 2/17/2010, 2) search logs from 09/15/2017 and 09/20/2017, 3) confiscation receipts from 09/15/2017 and 09/20/2017, 4) "missing pages" from 2/17/2010 to 11/11/2011 in her property file, 5) sign in logs "from EA Unit" for 10/27/2017 and 10/28/2017 "only for Superintendent Oliver's signature to prove Plaintiff had

the opportunity to discuss the problem”, and 6) property sheets for Inmate Sara Richardson and Jessica Strohl. Vo added that she, “has copies of most of these items, but they are carbon copies and hard to read after all these years.” ECF No. 63, p. 2.

The Court has ordered two responses from the Defendants since then. ECF Nos. 64, 77. The Defendants have submitted three responses to the Motion, most recently on July 14, 2021. ECF Nos. 65, 78, 79. Vo supplemented her motion with a letter. ECF No. 71.

Counsel for the Defendants represented that with respect to Vo’s request for more legible copies, they have already provided the most legible copies available. ECF No. 65, ¶ 21. Additionally, as agreed at a previous status conference on February 12, 2021, the Superintendent’s Assistant met with Vo on February 26, 2021, to review her property records and provided her additional documents then. ECF No. 65, ¶ 18.

“It is well established that the scope and conduct of discovery are within the sound discretion of the trial court.” *Marroquin-Manriquez v. I.N.S.*, 699 F.2d 129, 134 (3d Cir. 1983). In summary, since the filing of the Motion to Compel, the Defendants have responded at various times by providing the following documents:

1. redacted inmate property sheets for other inmates, ECF No. 65, ¶ 23,
2. housing unit log sheets specifically in response to Vo’s request for the “Sign in Log Page from EA Unit for 10-27-17 and 10-28-17 only for Superintendent Oliver’s signature to prove Plaintiff had the opportunity to discuss the problem,” ECF No. 65, ¶ 23,
3. confiscated items receipts from 09/15/2017, ECF No. 70-3, pp. 47–51 (an exhibit attached to Defendants’ motion for summary judgment),
4. initial intake property sheets for Vo, Inmate Berger, and Inmate Strohl, ECF No. 88-1,
5. confiscated items receipt no. 349312, ECF No. 88-1, and

6. search logs from September 16–21, 2017. ECF No. 88-1.

The Defendants have met their discovery obligations regarding requests for these documents.

The Defendants have asserted that they have not provided the following documents because they do not exist or are no longer within their possession, custody, or control:

1. Vo's property sheets from 2010 and 2011, ECF No. 65, ¶ 22,
2. search logs for 09/15/2017, ECF No. 88-1,
3. a confiscation slip/ “Confiscated items Receipts” from 09/20/2017, ECF No. 65, ¶ 22, ECF No. 78, ¶ 24, and
4. the intake property sheet for Inmate Richardson. ECF No. 88-1.

The Defendants can only provide documents which are within their “possession, custody, or control,” and Counsel for the Defendants has represented that they have provided all relevant documents which they have been able to locate. Fed. R. Civ. P. 34(a)(1). The Defendants withheld other documents pursuant to discovery objections, in accordance with the procedures of Fed. R. Civ. P. 34(b)(2), which the Court already determined were appropriate at the February 12, 2021, status conference. *See* Minute Entry for 02/12/2021 Status Conference at ECF No. 51. *See generally* *McBride v. Infinity Property & Cas. Corp.*, 2014 WL 1218912 (M.D. Pa. Mar. 24, 2014) (approving party withholding discovery pursuant to valid objection).

The Court is satisfied that the Defendants have complied with their discovery obligations. Considering the foregoing, the Motion to Compel at ECF No. 63 is denied.

Entered and Ordered this 20<sup>th</sup> day of July 2021.



RICHARD A. LANZILLO  
United States Magistrate Judge